



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 5, 2005, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Mayor Cooper.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Quirk, Halliday, Ward, Dowling
MAYOR Cooper
Absent: COUNCIL MEMBERS Henson

PRESENTATION: Business Recognition Award

The July 2005 Business Recognition Award was presented to Sara Lee Corporation. Sara Lee's Coffee and Tea has operated in Hayward for over 21 years. It is the largest foodservice coffee company in the nation and the third largest retail coffee company.

Sara Lee Corporation is a publicly held company and was established over 80 years ago. The Coffee Division in Hayward was originally the Caswell Coffee Company of San Francisco and was sold to Sara Lee as Superior Coffee in the 1970's. There are two Hayward facilities: a Distribution Center on Eichler Street and a Production Center on Corsair Boulevard. Sara Lee's Coffee Division employs over 100 people between the two Hayward plants.

The Business Recognition Award was presented to Sara Lee Corporation for operating their production and distribution plants in Hayward, hiring local residents, donating to local charities, and contributing to the overall economic well-being of the Hayward community. Mr. Elliot Katz, Division Business Director for Sara Lee Coffee and Tea Foodservice Direct, accepted the award and thanked Council for such an honor. He introduced staff members who accompanied him.

PUBLIC COMMENTS

Al Mendall suggested that during negotiations for the recycling contract that staff consider asking for less recycling bins at the curb. He noted other cities that use less bins as the recycling materials are sorted by the contractor.

Steve Murtaugh commented on the use of three dimension elevations during presentations by developers and indicated that he had asked for such at the Blue Rock hearing. He felt that utilizing this type of technology may have shown a better rendering of what is now impacting the residents on Fox Hollow.

George Adas, a long time resident of Hayward, urged a multi-cultural movie theater in the downtown.

DRAFT

CONSENT

Consent Item #4 was removed for separate vote.

1. Approval of the Minutes of the City Council Meeting of June 28, 2005.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried with Council Member Henson absent, to approve the minutes of the City Council Meeting of June 28, 2005.

2. Adoption of Ordinance Related to the 2004 California Electrical Code

Staff report submitted by City Clerk Reyes, dated July 5, 2005, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried with Council Member Henson absent, to adopt the following:

Ordinance 05-03, "An Ordinance to Be Known and Designated as the Electrical Code of the City of Hayward; Regulating the Installation, Alteration, Repair, and Maintenance of Electrical Wiring, Electrical Fixture, and Other Electrical Appliances and Equipment; Providing for the Issuances of Permits and Collection of Fees; and Repealing Ordinance No. 02-16 and All Amendments Thereto"

3. Water Main Retrofit at Hayward Fault Crossing on Walpert Street and Palisade Street, Award of Construction Contract

Staff report submitted by Deputy Director of Public Works Ameri, dated July 5, 2005, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried with Council Member Henson absent, to adopt the following:

Resolution 05-090, "Resolution Approving Addendum No. 1, and Awarding Contract to W.R. Forde Associates for the Water Main Retrofit at Hayward Fault Crossings on Walpert Street and Palisade Street Project, Project No. 7164"

Resolution 05-091, "Resolution Amending Resolution 04-102, As Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2004-05, Relating to an Appropriation of Funds from the Water System Replacement Fund (Fund 623) to the Water Main Retrofit at Hayward Fault Crossing on Walpert Street and Palisade Street Project, Project No. 7164"



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4. Authorization for the Sale of the Vacant Surplus Parcel at the Southwest Corner of A Street and Hesperian Boulevard

Staff report submitted by Deputy Director of Public Works Bauman, dated July 5, 2005, was filed.

John Kyle commented on the proposed Rigatoni Restaurant's potential clientele and available parking on this site. He suggested as much parking be available as there is at the Nation's Restaurant at Santa Clara and Jackson Street.

It was moved by Council Member Dowling, seconded by Council Member Halliday, and carried with Council Member Henson, to adopt the following:

Resolution 05-092, "Resolution Authorizing Sale of Surplus Property Parcel at the Southwest Corner of West "A" Street and Hesperian Boulevard"

LEGISLATIVE BUSINESS

5. Letter of Support for Proposed Transfer of Ownership of St. Rose Hospital

Staff report submitted by City Manager Armas, dated July 5, 2005, was filed.

City Manager Armas reported that in the sale or transfer of a non-profit hospital, state law requires the Attorney General review and consent to that transaction. There is a proposed sale of the St. Rose Hospital by Via Christi to St. Rose Hospital (SRH). Council received a study that concluded that St. Rose Hospital is a critical component of our health system in this area and a health provider to those in need of health services. He reported that St. Rose CEO Michael Mahoney is requesting a letter of support for this transaction is available and would be able to respond to Council inquiries.

Council Member Ward thanked St. Rose for providing services to the residents of Hayward as well as those non residents. He noted that he previously served on the St. Rose Hospital Board and appreciated the services provided. He asked Mr. Mahoney to respond to a recent newspaper article on the hospital's profitability.

Michael Mahoney, St. Rose Hospital CEO, briefed the Council and responded to Council questions, noting that SRH has secured financing, completed feasibility studies and noted that in light of a recent newspaper article, the hospital has been profitable for the last four years.

Council Member Quirk also asked Mr. Mahoney about a recent prospective buyer that was rejected. He also asked him to speak in regard to Eden Hospital joining a larger hospital system.

Council Member Dowling appreciated the service of the hospital towards his family and asked pertinent questions related to emergency room and urgent care needs.

Mr. Mahoney explained the negative financial background of that prospective purchase was the reason for rejecting the prospective buyer as well as the lack of successful experience in hospital administration. He explained that unlike Eden Medical, which is owned by Sutter Hospital System, St. Rose is an alternative course for health locally and its retrofit costs are somewhat lower than other hospital service centers. He noted that St. Rose was recently ranked as the most cost efficient hospital in California. Most of its funding is from government services. He enumerated strategies.

Mayor Pro Tempore Jimenez noted that he served on the first foundation towards fundraising for this hospital.

Council Member Halliday asked about the emergency room needs and potential expansion of clinics.

In response to addressing the health needs of women, Mr. Mahoney indicated that they will increase as St. Rose Hospital services were limited under the Catholic regulations.

Mr. Mahoney responded that there are strategies that may expand the emergency room and provide for non-critical urgencies, but there are staffing issues and federal regulations to address. He commented on the efforts to utilize other clinics to increase non-emergency services. He appreciated Measure A funding, Supervisor Steele and the partnership of Highland Hospital. He commented favorably on the Silva Clinic pediatric clinic.

Mayor Cooper opened the public hearing at 8:40 p.m.

George Adas noted that his father, a veteran, died at St. Rose. He asked for better veteran services at local hospitals and clinics.

Mayor Cooper closed the public hearing at 8:42 p.m.

It was moved by Council Member Jimenez, seconded by Council Member Ward, and carried with Council Member Henson absent, to present a letter of support on behalf of the City Council to Attorney General Lockyer at the public hearing to be held on July 6, 2005.

6. Consideration of Amending Hayward Municipal Code Relating to the Establishment of Contribution Limitations and a Voluntary Campaign Expenditure Limit for Elections to City Offices

Staff report submitted by City Attorney O'Toole, dated July 5, 2005,
was filed.

City Attorney O'Toole made the report, summarizing that the proposed modifications include an aggregation provision, a broader definition of the term "contribution," establish a date for CPI adjustments, modify the requirement for publication of the list of those candidates who agree to the



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voluntary expenditure limits and define the term for collecting funds and retiring debt. He responded to questions.

Council discussion ensued regarding the use of office space as an in-kind contribution and there seemed to be a consensus on excluding it from the proposed modifications. Council Member Quirk suggested that the expenditure limit be posted at the same place the Council candidates' list is posted.

Council Member Halliday expressed concern on the use of separate City forms for reporting in-kind contributions. She asked for clarification on the actual cost as compared to the market value. The reporting practices of FPPC for in-kind contributions are calculated by fair market value. She felt that this would be problematic and the City would need a separate form. She also asked how a complaint would be handled and expressed her concerns on enforcement. She suggested that the City Clerk be directed to review the forms. She also asked why this ordinance would not apply to recall nor initiative campaigns.

City Attorney O'Toole explained the issues related to First Amendment rights on the initiative as well as the difficulties in establishing an election term during the recall process.

Council Member Ward noted that he supported the original ordinance. He stated that he supports a majority of the modifications, but asked City Attorney O'Toole to explain the definition related to "election contest." He urged his colleagues to remove this provision as this seemed somewhat confusing. He also felt that candidates that run for another office might find this confusing as well.

Council Member Dowling commented on the in-kind provision and felt that examples discussed were not relevant. He agreed with Council Member Quirk regarding his suggestion to exempt office space. He urged his colleagues to remain with the FPPC forms. He commented that the CASH proposal includes requiring the City Clerk to review the campaign statements. He also suggested that the City Clerk check for completeness, accuracy and corrections for possible violations and the treasurers be provided opportunity to make corrections such as in regards to omissions. He agreed with CASH that recall and initiative committees be subject to this ordinance.

Mayor Cooper asked for clarification on Section 2-13.07 regarding the definition for "election contest." City Attorney O'Toole responded that he would clarify that part of the ordinance to state that the same City election office, which would mean a four-year term and a council member running for another office, would start another election contest.

Mayor Cooper opened the public hearing at 9:03 p.m.

Al Mendall appreciated that the revised ordinance incorporates a number of the suggestions that CASH has put forward. He thanked Council Member Halliday for initiating this discussion. He echoed Council Member Dowling's to utilize California's definition in terms of the valuation of in-kind donations and includes the exemption of office space use after hours. He spoke on the

enforcement issue. He recognized that there is an inherent conflict for staff to review the statements. He suggested staff review to allow a campaign treasurer an opportunity to correct prior to an official complaint for reporting a violation. City Attorney O'Toole responded that in a recall election, the incumbent may be at a disadvantage and indicated that perhaps Council is interested in setting an additional work session to further discuss this.

Mayor Cooper closed the public hearing at 9:09 p.m.

Council Member Quirk noted the difficulty in using two forms to report in-kind contributions and suggested using only State FPPC forms. The ordinance will include the State stipulation related to in-kind contributions be listed as market value and exempting the use of office space after hours. He agreed that an additional work session be scheduled to discuss further the applicability and ramifications of limits during recalls. He recommended that the Council direct the City Clerk to provide opportunity for the candidate to correct reports prior to seeking enforcement. This would be his motion. Both Council Members Dowling and Halliday seconded his motion.

Council Member Ward suggested that this item be continued for further discussion to allow Council Member Henson an opportunity to participate. As Mayor Cooper will not be in attendance next week, Council Member Dowling suggested that it be continued for two weeks.

It was moved by Council Member Dowling, seconded by Council Member Halliday, and carried with Council Member Henson absent, to continue this item until July 19.

The following was not introduced:

Intro Ordinance 05-_, "Ordinance Amending Chapter 2, Article 13 of the Hayward Municipal Code Relating to Campaign Contribution and Expenditure Limits"

COUNCIL REPORTS

There were none.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 9:14 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward